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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,422

05/25/2007

Pertti Hasanen

PAT155USA

7029

24339 7590 01/09/2009

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EXAMINER

ANDERSON, AMBER R

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

01/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,422	Applicant(s) HASANEN, PERTTI	
	Examiner AMBER R. ANDERSON	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's amendment filed October 7, 2008 has been reviewed and considered. The amendments to the specification and drawing have overcome the objections raised in the non-final Office Action mailed April 2, 2008. Claims 1-5 are currently pending of which Claims 1-4 have been amended and Claim 5 is new.

Applicant's First Argument: The Whitely device must be of light weight as it is aimed to be used in a game. In contrast, the trousers according to the present invention are for use as a training aid having an effective amount of training weight and also being flexible by way of the weight sheets. The present invention must be of high weight to make training more burdensome to make training more effective.

Examiner's Response: Any padding applied to any device would inherently add additional weight whether it is a significant amount or very little. Further, there is no limitation in the claims stating what an effective amount of weight is.

Applicant's Second Argument: In the present invention there are cuts in the weight plates to make the material more flexible. The trousers of the present invention conform tightly around the user, which will make the use comfortable. This structure and function is not shown or suggested in Whitely.

Art Unit: 3765

Examiner's Response: Whitely discloses stiff/rigid devices that cover the joints of padding that is sectioned so that they move relative to each other and conform to the thigh (Pg. 1, lines 10-23 and lines 45-46). Further the applicant claims cuts in Claim 3.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Carrington (USPN 6,408,446).

Regarding Claim 1, Carrington discloses training trousers (10) for use particularly in training improving muscular condition (where the trousers of Carrington are capable of being used in training improving muscular condition), to increase the stress of the training and including weights (30, where any padding applied to any device would inherently add additional weight whether it is a significant amount or very little), which are formed of rubber or plastic-based material (Col. 4, lines 6-12 where Ensolite is a plastic-based material), characterized in the weights are in the form of sheets that conform to the shape of the wearer's body (Co. 4, lines 25-29) and are located in

Art Unit: 3765

trousers on both sides extending downwardly from the waist to the front and back sides of the thighs as uniform plates (Fig. 1 & 2).

Regarding Claim 2, Carrington discloses the sheet material is equipped on at least one side with a fabric or cloth attached to it (34) which has padding properties (where a layer of fabric will add some degree of padding).

Regarding Claim 3, Carrington discloses the sheet material is equipped with cuts or slits (38), in order to improve flexibility and comfort (Col. 4, lines 25-29).

Regarding Claim 4, Carrington discloses the pieces of sheet-like material forming the additional weights are located in pocket-like parts of the apparel, which can if necessary be opened/closed (Col. 2, lines 59-67).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fee et al. (USPN 5,689,836) in view of Carrington (USPN 6,408,446).**

Art Unit: 3765

Fee et al. disclose training apparel, for use in training and improving muscular condition, to increase the stress of the training (where the trousers of Fee et al. are capable of being used in training improving muscular condition), the apparel comprising trousers (10) having a waist (12) and two legs extending downwardly from the waist (14, 16), each leg defining a thigh front, side and back portion (Fig. 1 & 2); two weights (44, 46) sewn inside the trousers (Abstract), each weight being formed of a uniform sheet of rubber or plastic-based material (Col. 3, lines 46-47, where neoprene is a rubber) having a predetermined effective training mass (where any padding applied to any device would inherently add additional weight whether it is a significant amount or very little), each weight being disposed on one side of the trousers and extending downwardly from the waist of the trouser (Fig. 1), and extending from the front around the side and to the back of the thighs as uniform sheet plates (Fig. 1-4), the weights conforming to the shape of the wearer's body (Fig. 1-4), each weight sheet further having slits that permit sheet flex (56). Fee et al. do not disclose the weights extending to the bottom of the leg of the trouser. Carrington teaches a pair of trousers (10) with weights (pads, 32) that extend from the waist to the bottom of the leg (Fig. 1) to provide more protection to the wearer's legs.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have extended the pads of Fee et al. to the bottom of the trousers, as taught by Carrington, to provide more protection to the wearer's legs.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the design of the pants with pads in David (USPN 6745401) and Zade (USPN 5,497,511).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER R. ANDERSON whose telephone number is (571) 270-5281. The examiner can normally be reached on Mon-Thur, 8am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AMBER R ANDERSON/
Examiner, Art Unit 3765

January 2, 2009

/Gary L. Welch/
Supervisory Patent Examiner, Art Unit 3765